

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

RAMIE CLARK)	
Claimant)	
)	
VS.)	
)	
U.S.D. 490)	
Respondent)	Docket No. 265,778
)	
AND)	
)	
KANSAS ASSOCIATION OF SCHOOL BOARDS)	
Insurance Carrier)	

ORDER

Claimant appeals Administrative Law Judge John D. Clark's June 21, 2001, preliminary hearing Order.

ISSUES

Claimant alleges she suffered bilateral carpal tunnel syndrome caused by her work activities while employed by the respondent from September 5, 2000, and continuing each and every day thereafter. The Administrative Law Judge (ALJ) denied claimant's request for medical treatment finding, "Claimant's arm problems are related to her back injury of September 5, 2000." Before claimant filed this claim, she filed a claim for injuries she suffered as a result of a September 5, 2000, accident while working for the respondent which has been assigned Docket No. 259,412.

On appeal, claimant contends she proved through her testimony and Dr. Philip R. Mills' April 17, 2001, medical report that she suffers bilateral carpal tunnel syndrome caused by the each and every day work activities while employed by the respondent.

Conversely, respondent requests the Appeals Board (Board) to affirm the ALJ's preliminary hearing Order that denied claimant's request for medical treatment.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the preliminary hearing record and considering the arguments contained in the parties' briefs, the Board finds that the preliminary hearing Order should be affirmed.

Claimant is employed by the respondent as a paraprofessional at Douglas High School. She was assigned to care and assist a cerebral palsy high school student during school hours. Claimant's job duties consists of transferring the student from her wheelchair to the toilet, stretching the student's extremities, and handwriting the student's assignments. Claimant testified that these job duties were not done continuously but were done on an intermittent basis throughout the school day.

On September 5, 2000, claimant testified she was in the process of transferring the student from her wheelchair to the toilet when the student "gave out on me." Claimant immediately felt severe pain in her back, developed a headache, and her right hand was numb and cold.

The respondent provided claimant with conservative treatment for her injuries and claimant was taken off work until September 18, 2000. Claimant was returned to work first with a 20 pound weight lifting restriction and later with restrictions of a single lift of 50 pounds and a repetitive lift of 25 pounds.

Claimant testified her right hand numbness resolved while she was off work but when she returned to work, even though it was light work, the numbness worsened. For the first time, at the preliminary hearing, claimant also complained of numbness in her left hand. There is no evidence of claimant having left hand complaints in any of the medical records admitted into evidence at the preliminary hearing.

At the claimant's attorney's request, she was examined and evaluated by Pedro A. Murati, M.D. Dr. Murati saw claimant on November 16, 2000. At that time, claimant reported to Dr. Murati that her right hand numbness was gone.

Respondent referred claimant to orthopedic surgeon Robert L. Eyster, M.D. Dr. Eyster saw claimant on February 2, 2001. Dr. Eyster's medical note does not indicate that claimant had any upper extremity complaints. He found claimant in all likelihood had injured a disc in her lower back as a result of the September 5, 2000, work-related accident. He opined that claimant needed no further medical treatment and assessed a 3 to 5 percent permanent functional impairment rating for claimant's low back injury. Dr.

Eyster restricted claimant's activities to a single lift of 50 pounds and to a repetitive lift of 25 pounds.

On April 17, 2001, also at claimant's attorney's request, she was examined and evaluated by Philip R. Mills, M.D. Claimant gave Dr. Mills a history of her September 5, 2000, work accident and accompanying severe low back pain, pain shooting into her neck, headaches and right hand numbness. During Dr. Mills' physical examination of claimant, he found a mildly positive phalens and the tinels was tender at the right wrist. Claimant made no left hand complaints to Dr. Mills and Dr. Mills did not examine or test claimant's left wrist.

Dr. Mills diagnosed claimant with probable bulging discopathy in the lumbosacral spine with myofascial type pain in the thoracic and cervical spine. He related that diagnosis to claimant's September 5, 2000, work-related accident. Additionally, Dr. Mills' diagnosis included, "I am unable to rule out a carpal tunnel syndrome in the hands." But Dr. Mills did not express an opinion within medical probability that claimant suffered from bilateral carpal tunnel syndrome or that the possible bilateral carpal tunnel syndrome was related to her work activities while employed by the respondent.

The Board concludes, at this stage of the proceedings, that claimant has failed to prove by a preponderance of the credible evidence that she suffers bilateral carpal tunnel syndrome or that claimant has suffered any injuries related to her each and every day work activities.

WHEREFORE, the Board finds that ALJ John D. Clark's June 21, 2001, preliminary hearing Order, should be, and is hereby, affirmed.

IT IS SO ORDERED.

This ____ day of August, 2001.

BOARD MEMBER

c: Michael Snider, Wichita, KS
Greg Worth, Lenexa, KS
John D. Clark, Administrative Law Judge
Philip S. Harness, Director